

SUBJECT: Regulation of lay midwives

COMMITTEE: Health Services: committee substitute recommended

VOTE: 8 ayes--Untermeyer, Whitehead, Barrientos, Gonzales,
Grubbs, Simpson, Uribe, Webber

0 nay

1 present, not voting--Ezzell

0 absent

WITNESSES: For--Arthur Munoz, Department of Human Resources; C. E. Gibbs, M. D.; Joceline K. Alexander, Certified Nurse Midwife; Beatrice Von Ohlen, Brownsville Department of Health; Lois del Castillo, Texas Nurses Association; Katherine E. Stanwick, Bethlehem Childbirth Center; Raymond T. Moore, Texas Department of Health; Niki Richardson, Austin Lay Midwives Association

Against--Ace Pickens, Texas Medical Association

DIGEST:

This bill would require the Board of Health to appoint a lay midwifery board. The board would establish qualifications for lay midwifery training instructors, issue a lay midwifery training manual, and issue a final examination for a lay midwifery training course. The courses may be offered by local health departments, post-secondary educational institutions, and adult education programs. Final examinations may be written or oral and shall be in English and Spanish. The Health Department may charge a fee of \$50 for the training course and \$10 for the manual. The fee for the examination is \$25. Persons who take the course and pass the examination will receive a letter of completion.

Each year, a lay midwife must identify herself or himself to the county clerk and provide specified information plus any other information the department determines necessary.

Lay midwives must make disclosures to clients relating to the limitations on the skills and practices of lay midwives. Lay midwives are prohibited from certain acts such as administering drugs and using surgical instruments.

PRO: Texas has no single statute which defines duties and responsibilities of lay midwives. As a result, clients are often confused about what to expect from midwives. This bill defines the practice of midwifery and sets explicit and reasonable limits on it. It emphasizes the need for midwives to be recognized, competent, trained, and accountable to their clients.

PRO
(continued)

Like it or not, midwifery is here to stay. Increasing numbers of women are seeking the services of midwives. Some use midwives because they cannot afford other means of health care, and others use them for cultural reasons, a preference for home birth, or a feeling that the quality of care offered by midwives is superior to that of physicians. This bill is a realistic approach to upgrading the services offered by midwives. Many midwives have expressed the need for training programs so that they can recognize complications, learn sterile delivery techniques, and prevent harmful conditions from occurring. This bill is a step towards seeing that every woman and baby receive the best care available.

This bill wisely makes the training course and examination optional instead of mandatory. If it were required, some midwives might be forced underground because of inability to pay for the course, or for other reasons. A midwife practicing illegally would be reluctant to take a client to the hospital in an emergency, and the result could be unnecessary loss of life. Also, the practice would be difficult to study or to regulate if practitioners were forced underground.

Tragedies have occurred because midwives have performed certain actions without sufficient medical knowledge. The improper use of forceps, other surgical instruments, and drugs has caused brain damage, deformity, and even death. This bill provides necessary prohibitions on these types of practices and ensures that clients will be protected from unsafe delivery methods.

Requiring midwives to identify themselves give the Health Department a much-needed monitoring system. The department will be able to study the practice of midwifery.

Requiring midwives to disclose to clients the nature and limitations of their practice will ensure that clients aren't deceived about the type of care that they will receive. The client will be able to make an informed choice of maternity services.

Establishing a multidisciplinary lay midwifery board is important in seeing that the interests of the midwives, the public, and the medical profession are taken into consideration.

CON:

The care rendered by law midwives is inferior to that given physicians. Giving recognition to this practice and setting up training programs for midwives will only perpetuate a practice which should be eliminated.

CON
(continued)

Giving letters of completion to midwives who pass a training course and an examination will allow midwives to pass themselves off as professionals. Many midwives don't even have any formal education. They should not be given an opportunity to represent themselves as qualified health personnel.

The fees set for the training course, manual, and examination are too high. Many midwives live in poverty. Along the Texas/Mexican border, fees for delivery range from \$10 to \$135, and the average fee is \$76.50. Although some midwives deliver a large number of babies each month, others only deliver a few. Midwives with low incomes might be prevented from taking the training course for financial reasons.

This bill does not address the problem of the unwillingness of physicians to involve themselves with midwives. Very rarely will physicians make themselves available for consultation and assistance when problems arise. In many cases, disastrous consequences could be avoided by timely referral to a physician. This bill should exempt physicians from liability for any adverse outcome to mother or baby referred by a lay midwife and accepted for care by a physician.

The provision of the bill allowing the Department of Health to require information in addition to that specified in the bill could be challenged as an invasion of privacy.

COMMENTARY:

In Banti v. State, 289 S.W. 2d 244, 248 (Tex. Crim. App. 1956), the Texas Court of Criminal Appeals said that a lay midwife was not practicing medicine when she assisted a woman at normal childbirth. The court said that pregnancy is a normal function of womanhood and does not constitute a disease, deformity, or injury. The court said that there is no reason why the Legislature could not establish a line of statutory demarcation separating the work of the midwife from that of the practice of medicine.